

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of the Application of Missouri Gas)	
Energy, a Division of Southern Union Company, for)	<u>Case No. GO-2005-0273</u>
Approval to Establish an Infrastructure System)	Tariff No. YG-2005-0958
Replacement Surcharge.)	

ORDER APPROVING TARIFF IN COMPLIANCE WITH COMMISSION ORDER

On February 14, 2005, Missouri Gas Energy, a division of Southern Union Company, filed with the Missouri Public Service Commission an Application and Petition for Establishment of an Infrastructure System Replacement Surcharge (ISRS). MGE's request was accompanied by an implementing tariff. On May 3, 2005, the Commission issued an Order Approving the ISRS but rejecting the tariff. In that Order, MGE was authorized to file a new tariff recovering the revenue and implementing the rates as authorized in that Order.

On May 3, 2005, MGE filed a replacement tariff. The company also filed a Motion for Expedited Treatment asking the Commission to approve the tariff to become effective on May 13, 2005. MGE states that granting the motion "will afford MGE the timely rate relief which the Commission has found to be justified." MGE also states that granting the relief "will cause no negative effect on MGE's customers or the public generally."

On May 6, 2005, the Staff of the Commission filed its memorandum. Staff states that the tariff sheet is in compliance with the Commission's Order and recommends that it be approved. With regard to MGE's motion for expedited treatment, however, Staff points out that the Commission's rules require MGE to provide "a surcharge description on all affected customer bills, which informs the customers of the existence and amount of the

ISRS on the bills.” Staff goes on to suggest that if the Commission issues an order granting the motion for expedited treatment, that it be conditioned on MGE complying with Commission rule 4 CSR 240-3.265(8)(C).¹ Staff also points to Section 393.140(11), which requires a showing of good cause for tariffs to be approved in less than 30 days.

The Commission has reviewed the tariff sheet and Staff’s memorandum and finds that the tariff sheet complies with the Commission’s order. The Commission will therefore approve the tariff sheet and direct that MGE comply with Commission rule 4 CSR 240-3.265(8)(C).

Commission rule 4 CSR 240-2.080(16) requires that motions for expedited treatment set out the date by which the party desires the Commission to act and a statement of the harm that will be avoided or benefit that will accrue, or that there will be no negative effect on the party’s customers or the general public. MGE has stated that there will be no negative effect on its customers or the general public. The Commission finds that MGE’s request for expedited treatment complies with the Commission’s rule.

With regard to Section 393.140(11), and the requirement that good cause be shown to expedite the tariff, the Commission notes that a showing of good cause “eludes a precise definition but refers to a remedial purpose and is to be applied with discretion to prevent a manifest injustice or to avoid a threatened one.” Bennett v. Bennett, 938 S.W.2d 952, 957 (Mo. App. S.D. 1997). There is no apparent injustice for the Commission to prevent. The purpose of Section 393.140(11) would therefore not be frustrated by granting MGE’s request for expedited treatment.

The Commission will therefore approve the tariff and grant MGE’s request that the approval be expedited. The Commission will also require MGE to file sample bills, which

¹ Although Staff references rule 4 CSR 240-3.265(7)(C), this is an error. The correct rule is 4 CSR 240-3.265(8)(C).

show compliance with 4 CSR 240-3.265(8)(C). The Commission will further require Staff to then file a pleading stating whether the sample bills are in compliance with the Commission's rule.

IT IS THEREFORE ORDERED:

1. That Missouri Gas Energy's motion for expedited treatment is granted.
2. That the following tariff sheet is approved to become effective on May 13, 2005:

P.S.C. MO. No. 1

Third Revised Sheet No. 10, Canceling Second Revised Sheet No. 10

3. That with five days of including the Infrastructure System Replacement Surcharge on its customers' bills, Missouri Gas Energy shall file a sample of the bills with the Commission.
4. That ten days after Missouri Gas Energy files a sample of the bills, the Staff of the Commission shall file a memorandum stating whether the bills are in compliance with Commission rule 4 CSR 240-3.265(8)(C).
5. That this order shall become effective on May 13, 2005.

BY THE COMMISSION

(S E A L)

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

Kennard L. Jones, Regulatory Law Judge,
by delegation of authority pursuant to
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 11th day of May, 2005.